

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

:
Plaintiff,

:
vs.

Case No. 3:05cr75

:
CHUCKIE LEE,

JUDGE WALTER HERBERT RICE

:
Defendant.

DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS
OF UNITED STATES MAGISTRATE JUDGE (DOC. #47) IN THEIR
ENTIRETY, AND OVERRULING THE DEFENDANT'S OBJECTIONS
(DOC. #48) THERETO; DEFENDANT'S MOTION ENTITLED "APPEAL
PURSUANT TO RULE 60-B(4)" (DOC. #46) OVERRULED; CERTIFICATE
OF APPEALABILITY AND ANTICIPATED REQUEST TO APPEAL *IN
FORMA PAUPERIS* DENIED; JUDGMENT TO ENTER ACCORDINGLY;
TERMINATION ENTRY

Pursuant to the reasoning and citations of authority set forth by the United States Magistrate Judge, in his Report and Recommendations filed June 5, 2008 (Doc. #47), as well as upon a thorough *de novo* review of this Court's file and the applicable law, said Report and Recommendations are adopted in their entirety, and the Defendant's Objections thereto (Doc. #48) are overruled. Concluding that Public Law 80-772, which enacted 18 U.S.C. § 3231, was validly enacted, the United States District Court for the Southern District of Ohio had both subject

matter jurisdiction over the offenses charged against the Defendant and *in personam* jurisdiction over him. Accordingly, the Defendant's Motion, entitled Appeal Pursuant to Rule 60-B(4) (Doc. #46), is overruled.

Given that the Defendant has failed to set forth a substantial showing of the denial of a constitutional right, in that reasonable jurists could not debate the result herein, this Court denies Defendant a Certificate of Appealability. Further, given that any appeal from this Court's Order would be objectively frivolous, this Court denies any anticipated or subsequent request for leave to appeal *in forma pauperis*.

Judgment is to enter accordingly.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

/s/ Walter Herbert Rice

July 17, 2008

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

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